

## **DOCUMENT 00750**

### **SUPPLEMENTARY CONDITIONS**

These Supplementary Conditions modify, change, delete from or add to the General Conditions of the Contract for Construction, AIA Document A201, 1997 Edition. Where any Article of the General Conditions is modified or any Paragraph, Subparagraph or Clause thereof is modified or deleted by these supplements, the unaltered provisions of that Article, Paragraph, Subparagraph or Clause shall remain in effect.

Articles, Paragraphs, Subparagraphs or Clauses modified or deleted have the same numerical designation as those occurring in the General Conditions.

## **ARTICLE 1**

### **GENERAL PROVISIONS**

#### **1.1 DEFINITIONS**

##### **1.1.1 THE CONTRACT DOCUMENTS**

In Subparagraph 1.1.1 delete the third sentence, and add the following sentence:

"The Contract Documents shall include the Bidding Documents as listed in the Instructions to Bidders and any modifications made thereto by addenda, and the Louisiana Standard Specifications for Roads and Bridges and the Supplementary Specifications and Special Provisions thereto."

##### **1.1.6 THE SPECIFICATIONS**

Delete this subsection and substitute the following:

##### **1.1.6 The Architectural Specifications**

The Architectural Specifications are that portion of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams. The project specifications include both the Architectural Specifications and the Standard Specifications for Roads and Bridges, 2000 Edition, and the Supplementary Specifications and Special Provisions thereto.

#### **1.6 OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS**

1.6.1 In the third sentence: delete the remainder of the sentence starting with "and unless otherwise indicated ..."

## **ARTICLE 2**

### **OWNER**

2.1.2 In the first sentence after the words “written request” add “from the Contractor.”

2.2.1 Delete this paragraph.

2.2.2 In the first sentence, delete: all before "the Owner shall secure"

2.4.1 In the first sentence, delete all words after "the owner may," to the end.  
In the second sentence, delete all words before "without prejudice"

### **ARTICLE 3**

#### **CONTRACTOR**

##### **3.2 Review of Contract Documents and Field Condition by Contractor**

3.2.3 In the last sentence delete the word “field” and substitute “site”.

##### **3.4 Labor and Materials**

3.4.2 Delete this paragraph

##### **3.7 PERMITS, FEES AND NOTICES (R.S. 40:1724[A] )**

Delete Subparagraph 3.7.1 and 3.7.2 and add the following Subparagraph 3.7.2

The Contractor shall comply with and give notices required by laws, rules, ordinances, regulations and lawful orders of state authorities bearing on performance of the Work.

##### **3.8 ALLOWANCES**

Delete Subparagraph 3.8.1, 3.8.2 and 3.8.3 in their entirety and add the following new Subparagraph 3.8.1:

3.8.1 Allowances shall not be made on any of the Work.

##### **3.10 CONTRACTOR’S CONSTRUCTION SCHEDULES**

3.10.1 Add the following: For projects with a contract sum greater than \$1,000,000.00, the Contractor shall include with the schedule, for the Owner’s and Architect’s information, a network analysis to identify those tasks which are on the critical path, i.e. where any delay in the completion of these tasks will lengthen the project timescale, unless action is taken. See Section 01322 of the Project Manual for specific schedule requirements. A revised schedule shall be submitted with each Application and Certificate for Payment. No payment will be made until the revised schedule is received.

3.10.3: Add the following: If the work is not on schedule, as determined by the Architect, and the Contractor fails to take action to bring the work on schedule, then the Contractor shall be deemed in default under this Contract and the progress of the work shall be deemed

unsatisfactory. Such default may be considered grounds for termination by the Owner for cause in accordance with 14.2.

Add: 3.10.4 Submittal by the contractor of a schedule or other documentation showing a completion date for his work prior to the completion date stated in the contract shall not impose any obligation or responsibility on the Owner or Architect for the earlier completion date.

### **3.11 DOCUMENTS AND SAMPLES AT THE SITE**

3.11.1 Add the following at the end of the paragraph: This is a material requirement of the contract.

### **3.17 ROYALTIES, PATENTS AND COPYRIGHTS**

3.17.1 In the first sentence after "defend suits or claims" add "against it, the Owner and/or the Architect".

## **ARTICLE 4**

### **ADMINISTRATION OF THE CONTRACT**

#### **4.1 ARCHITECT**

Delete Subparagraph 4.1.1 and substitute the following:

4.1.1 "The term Architect, when used in the Contract Documents, shall mean the prime Designer (Architect, Engineer or Landscape Architect), or his authorized representative, lawfully licensed to practice architecture, engineering or landscape architecture in the State of Louisiana, identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number."

#### **4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT**

4.2.2 Delete the word(s) "generally" in (1), "to endeavor" at the beginning of (2), and "in general" from (3) of the first sentence.

4.2.10 Add the following sentence to the end of Subsection 4.2.10:

"There will be no restriction on the owner having a Representative."

#### **4.3. CLAIMS AND DISPUTES**

4.3.2 Add the following to the end of the paragraph:

A "Reservation of Rights" and similar stipulations shall not be recognized under this contract as having any effect. A party must make a claim as defined herein within the time limits provided

4.3.5 Add the following as the new second sentence:

This is a material requirement of the Contract.

4.3.7.1 Delete the last sentence and substitute the following:

In the case of a continuing delay only one Claim is necessary, provided the Contractor declares in the Claim that the demand or assertion involves a continuing delay.

4.3.7.2 Delete the paragraph and substitute the following:

If adverse weather conditions are the basis for a claim for additional time, the Contractor shall document that weather conditions had an adverse effect on the scheduled construction. An increase in the contract time due to weather shall not be cause for an increase in the contract sum.

4.3.7.3 Add the following Subparagraph:

The following are considered reasonably anticipated days of adverse weather on a monthly basis:

January	<u>11</u> days	May	<u>5</u> days	September	<u>4</u> days
February	<u>10</u> days	June	<u>6</u> days	October	<u>3</u> days
March	<u>8</u> days	July	<u>6</u> days	November	<u>5</u> days
April	<u>7</u> days	August	<u>5</u> days	December	<u>8</u> days

The Contractor shall ask for total adverse weather days, the Contractor's request shall be considered only for days over the allowable number of days stated above.

*Note: Contract is on a calendar day basis.*

4.4.1 In the second sentence, delete the words "mediation, arbitration or"

4.4.5 In the second sentence, delete all after "the parties"

4.4.6 Delete paragraph

4.4.8 In the first sentence, delete "by mediation or by arbitration."

## 4.5 MEDIATION

Delete Article 4.5

## 4.6 ARBITRATION

Delete Article 4.6

## ARTICLE 5

## **SUBCONTRACTORS**

### **5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

Delete Subparagraph 5.2.1, and substitute the following:

5.2.1 Unless otherwise required by the Contract Documents, the Contractor shall furnish at the Pre-Construction Conference, to the Owner and the Architect, in writing, the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the work. No Contractor payments shall be made until this information is received."

Delete Subparagraph 5.2.2 and substitute the following:

5.2.2 The Contractor shall be solely responsible for selection and performance of all subcontractors. The Contractor shall not be entitled to claims for additional time and/or an increase in the contract sum due to a problem with performance or non-performance of a subcontractor.

Delete Subparagraph 5.2.3 and 5.2.4 and add the following:

5.2.3 The contractor shall notify the owner when a subcontractor is to be changed and substituted with another subcontractor.

### **5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS**

Delete Subparagraph 5.4.1 and 5.4.2.

## **ARTICLE 7**

### **CHANGES IN THE WORK**

#### **7.1 GENERAL**

Add the following paragraph:

7.1.4 As part of the pre-construction conference submittals, the contractor is to submit the following prior to the commencement of work.

Fixed job site overhead cost itemized with documentation to support daily rates.  
Bond Premium Rate with supporting information from the General Contractor's carrier.  
Labor Burden by trade for both Subcontractors and General Contractor.  
Internal Rate Charges for all significant company owned equipment.

#### **7.2 CHANGE ORDERS**

Delete Subparagraph clauses 7.2.1, and 7.2.2, and substitute the following paragraphs:

7.2.1 "A Change Order is a written order to the Contractor signed by the Owner and the Architect, issued after execution of the Contract, authorizing a change in the work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. A Change Order signed by the Contractor indicates his agreement therewith, including the adjustment in the Contract Sum or the Contract Time."

7.2.2 "Cost of the Work" for the purpose of Change Orders shall be costs required to be incurred in performance of the work and paid by the Contractor and Subcontractors which shall consist of:

1. Wages paid direct labor personnel, delineating a labor burden markup for applicable payroll taxes, worker's compensation insurance, unemployment compensation, and social security taxes.
  2. Cost of all materials and supplies, including the identification of each item and its cost.
  3. Identify each necessary piece of machinery and equipment and its individual cost.
  4. Other documented direct costs.
- Credit will not be required for overhead and profit.

7.2.3 "Overhead and profit" The Contractor and Subcontractor shall be due job-site and home office fixed overhead and profits on the Cost of the Work, but shall not exceed a total of 25% of the direct cost of any portion of work:

The credit to the Owner resulting from a change in the work shall be the sum of those items above, except credit will not be required for overhead and profit. Where a change results in both credits to the Owner and extras to the Contractor for related items, overhead and profit will only be computed on the net extra cost to the Contractor.

7.2.4 The cost to the Owner resulting from a change in the work shall be the sum of: "Cost of the Work" ( as defined at 7.2.2) and "Overhead and profit" (as defined at 7.2.4), and shall be computed as follows:

7.2.4.1 When all of the work is General Contract work; 15% markup on the Cost of the Work.

7.2.4.2 When the work is all Subcontract work; 15% markup on the Cost of the Work for Subcontractor's Overhead and Profit, plus 10% markup on the Cost of the Work, not including the Subcontractor's Overhead and Profit markup, for General Contractor's Overhead and Profit.

7.2.4.3 When the work is a combination of General Contract work and Subcontract work; that portion of the direct cost that is General Contract work shall be computed per 7.2.4.1 and that portion of the direct cost that is subcontract work shall be computed per 7.2.4.2

Bond premiums may be included, but after the markup is added to the cost of the

work.

7.2.4.4 "Subcontract cost shall consist of the items in 7.2.2 above plus overhead and profit as defined in 7.2.4."

7.2.5 "Before a Change Order is prepared, the Contractor shall provide and deliver to the Architect the following information concerning the Cost of the Work, not subject to waiver, within a reasonable time after being notified to prepare said Change Order:

A detailed itemized list of labor, material and equipment costs for the General Contractor's work including quantities and unit costs for each item of labor, material and equipment.

An itemized list of labor, material and equipment costs for each Subcontractor's and/or Sub-Subcontractor's work including quantities and unit costs for each item of labor, material, and equipment.

7.2.6 "After a Change Order has been approved, no future requests for extensions of time or additional cost shall be considered for that Change Order."

7.2.7 The Contractor will be due extended fixed job-site overhead for time delays only when complete stoppage of work occurs causing a contract completion extension, and the Contractor is unable to mitigate financial damages through replacement work. The stoppage must be due to acts or omissions solely attributable to the Owner. In all cases the Contractor is to notify the Designer in writing as required by article 4.3.2. Reasonable proof may be required by the architect that alternate work could not be preformed. Reasonable proof may be required by the architect that the stoppage affected the Completion Date.

7.2.8 "Cost of the work whether General Contract cost or Subcontract cost shall not apply to the following:

Salaries or other compensation of the Contractor's personnel at the Contractor's principal office and branch offices.

Any part of the Contractor's capital expenses, including interest on the Contractor's capital employed for the work.

Overhead and general expenses of any kind or the cost of any item not specifically and expressly included above in cost of the work.

Cost of supervision not specifically required by the Change Order.

7.2.9 "When applicable as provided by the Contract, the cost to Owner for Change Orders shall be determined by quantities and unit prices. The quantity of any item shall be as submitted by the Contractor and approved by the Architect. Unit prices shall cover cost of Material, Labor, Equipment, Overhead and Profit."

7.3.3 At the end of the first sentence add:

“, but not to exceed a specified amount.’

7.3.6 Replace the five cost of work descriptions with the following four:

1. Wages paid direct labor personnel, with a labor burden markup for applicable payroll taxes, worker’s compensation insurance, unemployment compensation, and social security taxes.
2. Cost of all materials and supplies.
3. Cost of necessary machinery and equipment.
4. Other documented direct costs.

7.3.8 Delete the second and third sentences.

## **ARTICLE 8**

### **TIME**

#### **8.1 DEFINITIONS**

Add the following:

8.1.5 The Contract Time shall not be changed by the submission of a schedule that shows an early completion date unless specifically authorized by change order.

#### **8.2 PROGRESS AND COMPLETION**

Delete Subparagraph 8.2.1 and substitute the following:

"Time is of the essence and completion of the work must be within the Time for Completion stated in the Agreement, subject to such extensions as may be granted under Section 8.3. The Contractor agrees to commence work not later than fourteen (14) days after the transmittal date of Written Notice to Proceed from the Owner and to substantially complete the project within the time stated in the Contract. The Owner will suffer financial loss if the project is not substantially complete in the time set forth in the Contract Documents. The Contractor and the Contractor's Surety shall be liable for and shall pay to the Owner the sum stated in the Contract Documents as fixed, agreed and liquidated damages for each consecutive calendar day (Saturdays, Sundays, and holidays included) of delay until the work is substantially complete. The owner shall be entitled to the sum stated in the Contract Documents. Such Liquidated Damages shall be withheld by the owner from the amounts due the Contractor.

Delete Subparagraph 8.2.2.

#### **8.3 DELAYS AND EXTENSIONS OF TIME**

8.3.1 In the first sentence (1) after the words “unusual delay in deliveries” add “caused by shortages or problems of regional and/or national scope,” (2) after the words “owner pending” delete the words “mediation and arbitration” and add the word “litigation,” and (3) delete the last word “determine” and add the following:



"recommend, subject to Owner's approval of Change Order. If the claim is not made within the limits of paragraph 4.3, all right for future claims for that month are waived."

## ARTICLE 9

### PAYMENTS AND COMPLETION

#### 9.2 SCHEDULE OF VALUES

Delete Subparagraph 9.2.1 and substitute the following:

9.2.1 At the Pre-Construction Conference, the Contractor shall submit to the Owner and the Architect a Schedule of Values prepared as follows:

9.2.1.1 The attached Schedule of Values Format shall be used. If applicable, the cost of work for each section listed under each division, shall be given. The cost for each section shall include labor, materials, overhead and profit.

9.2.1.2 The Total of all items shall equal the Total Contract Sum. This schedule, when approved by the Architect, shall be used only as a basis for the Contractor's Applications for Payment."

#### 9.3 APPLICATIONS FOR PAYMENT

Delete Subparagraph 9.3.1 and clause 9.3.1.1 and 9.3.1.2 and substitute the following:

9.3.1 "Monthly, the Contractor shall submit to the Architect an Application & Certificate for Payment on the AIA Document G702-1992, accompanied by AIA Document G703-1992, and supported by any additional data substantiating the Contractor's right to payment as the Owner or the Architect may require. Application for Payment shall be submitted on or about the first of each month for the value of labor and materials incorporated into the work and of materials, suitably stored, at the site as of the twenty-fifth day of the preceding month, less normal retainage as follows:

9.3.1.1 Projects with Contract price up to \$500,000.00 - 10% of the Contract price.

9.3.1.2 Projects with Contract price of \$500,000.00, or more - 5% of the Contract price.

The normal retainage shall not be due the Contractor until after substantial completion and expiration of the forty-five day lien period and submission to the Architect of an original certified clear lien certificate acquired from the clerk of court after the forty-five day lien period and an invoice for retainage."

Delete Subparagraph 9.3.2 and substitute the following:

9.3.2 "Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. Payments for materials or equipment stored on the site shall be conditioned upon submission by the Contractor of bills of sale or such

other procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, including applicable insurance."

## **9.6 PROGRESS PAYMENTS**

Delete Subparagraph 9.6.1 and substitute the following:

9.6.1 "After the Architect has issued a Certificate for Payment, the Owner shall make payment within thirty days of the receipt thereof, less any withholding(s) pursuant to the Contract or law."

9.6.2 After the end of the second sentence, add the following:

"R.S. 9:2784 (A) and (C) requires a Contractor or Subcontractor to make payment due to each Subcontractor and supplier within fourteen (14) consecutive days of the receipt of payment from the Owner. If not paid, a penalty in the amount of 1/2 of 1% per day is due, up to a maximum of 15%, from the expiration date until paid. The contractor or subcontractor, whichever is applicable, is solely responsible for payment of a penalty."

9.6.4 Add the following:

Pursuant to La. R.S. 48:256.5, when the Owner receives any claim of nonpayment arising out of the Contract, the owner shall deduct 125% of such claim from the Contract Sum. The Contractor, or any interested party, may deposit security, in accordance with La. R.S. 48:256.7, guaranteeing payment of the claim with the recorder of mortgages of the parish where the Work has been done. When the Owner receives original proof of such guarantee from the recorder of mortgages, the claim deduction will be added back to the Contract Sum.

## **9.7 FAILURE OF PAYMENT**

Delete Subparagraph 9.7.1.

## **9.8 SUBSTANTIAL COMPLETION: Delete this section and substitute the following:**

### **9.8 SUBSTANTIAL COMPLETION**

9.8.1 Substantial Completion is the stage in the progress of the Work when the Work is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. The Architect shall determine if the project is substantially complete in accordance with this Subparagraph.

9.8.2 When the Contractor considers that the Work is Substantially Complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

- 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work is substantially complete. A prerequisite to the work being accepted as substantially complete, is the Owner's receipt of the executed Roofing Contractor's and Roofing Manufacturer's guarantees, where roofing work is part of the Contract. Prior to inspection by the Architect, the Contractor shall notify the Architect that the project is ready for inspection by the State Fire Marshal's office. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use, the Contractor shall, before acceptance of the work as Substantially Complete, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.
- 9.8.4 When the Architect determines that the project is Substantially Complete, he shall prepare a "punch list" of exceptions and the dollar value related thereto. The monetary value assigned to this list will be the sum of the cost estimate for each particular item of work the Architect develops based on the mobilization, labor, material and equipment costs of correcting the item and shall be retained from the monies owed the contractor, above and beyond the standard lien retainage. The cost of these items shall be prepared in the same format as the schedule of values. At the end of the 45-day lien period payment shall be approved for all punch list items completed up to that time. After that payment, none of the remaining funds shall be due the contractor until all punch list items are completed and are accepted by the Architect. If the dollar value of the punch list exceeds the amount of funds, less the retainage amount, in the remaining balance of the Contract, then the Project shall not be accepted as substantially complete. If funds remaining are less than that required to complete the work, the Contractor shall pay the difference.
- 9.8.5 When the "punch list" is complete the Architect shall prepare a Recommendation of Acceptance" incorporating the punch list and submit it to the Owner. Upon approval of the Recommendation of Acceptance, the Owner may issue a Notice of Acceptance of Building Contract which shall establish the Date of Substantial Completion.
- 9.8.6 Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work unless otherwise agreed to in writing by the Owner and Contractor. Unless otherwise agreed to in writing by the Owner and Contractor, security, maintenance, heat, utilities, damage to the Work not covered by the punch list and insurance shall become the Owner's responsibility on the Date of Substantial Completion.
- 9.8.7 If all punch list items have not been completed by the end of the forty-five (45) day lien period, through no fault of the Architect or Owner, the Owner may hold the Contractor in default. If the Owner finds the Contractor is in default, the Surety shall be notified. If within forty-five (45) days after notification, the Surety has not completed the punch list, through no fault of the Architect or Owner, the Owner may, at his option, contract to have the balance of the work completed and pay for such work with the unpaid funds remaining in the Contract sum. Finding the Contractor in default shall constitute a reason for disqualification of the Contractor from bidding on future state

contracts. If the surety fails to complete the punch list within the stipulated time period, the Owner may not accept bonds submitted, in the future, by the surety.

## **9.9 Partial Occupancy or Use**

### **9.9.1 Delete paragraph and substitute the following:**

"Partial Occupancy is that stage in the progress of the Work when a designated portion of the Work is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the designated portion of the Work for its intended use. The Owner may occupy or use any substantially completed portion of the Work so designated by separate agreement with the Contractor and authorized by public authorities having jurisdiction over the Work. Such occupancy or use may commence provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers the designated portion substantially complete the Contractor shall prepare and submit a list to the Architect as provided under Subparagraph 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonable withheld."

## **9.10 FINAL COMPLETION AND FINAL PAYMENT**

### **9.10.1 After the first sentence, add the following:**

If the Architect does not find the work acceptable under the Contract Documents, the Architect shall make one additional inspection; if the work is still not acceptable, the Architect, and each of the Architect's principal consultants, shall be paid \$100.00/hour for their time at the project site, for each additional inspection, to be withheld from the unpaid funds remaining in the Contract sum. The payment shall be made by the owner and deducted from the construction contract funds.

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## **ARTICLE 10**

### **PROTECTION OF PERSONS AND PROPERTY**

## **10.2 SAFETY OF PERSONS AND PROPERTY**

10.2.2, In the first sentence, between the words "bearing on" and "safety", add the words "the health and",

## **10.3 HAZARDOUS MATERIALS**

10.3.1 In the first sentence after "(PCB)" add "or lead"

10.3.2 After the first sentence, delete all until the sentence beginning "When the material or substance . . ." Delete the last sentence and substitute: "The Contract time shall be extended appropriately."

Delete Subparagraph 10.3.3

## **10.6 EMERGENCIES**

Delete Subparagraph 10.6.1 and substitute the following:

10.6.1 "In an emergency affecting the safety of persons or property, the Contractor shall notify the Owner and Architect immediately of the emergency, simultaneously acting at his discretion to prevent damage, injury, or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 4.3 and Article 7."

## **ARTICLE 11**

### **INSURANCE AND BONDS**

Delete all of Paragraphs 11.1 and 11.2 and substitute the following:

#### **INSURANCE REQUIREMENT FOR NEW CONSTRUCTION AND RENOVATIONS**

### **11.1 STANDARDIZED INSURANCE REQUIREMENTS FOR ALL STATE CONTRACTS**

11.1.1 This paragraph not used.

11.1.2 All policies and certificates of insurance of the Contractor/Subcontractor shall contain the following clauses:

11.1.2.1 The Contractor/Subcontractor's insurer will have no right of recovery or subrogation against the Owner, it being the intention of the parties that the insurance policies so affected shall protect both parties and the primary coverage for any and all losses covered by the below described insurance.

11.1.2.2 The Owner shall be named as an additional insured as regards negligence by the contractor (ISO Forms CG 20 10, Current form approved for use in Louisiana).

11.1.2.3 The insurance companies issuing the policy or policies shall have no recourse against the Owner for payment of any premiums or for assessments under any form of policy.

11.1.2.4 Any and all deductibles in the below described insurance policies shall be assumed by and be at the sole risk of the Contractor or Subcontractor.

11.1.3 INSURANCE:

The Contractor/Subcontractor, prior to commencing work, shall provide at his own expense, proof of the following insurance coverages required by the contract to the Owner in insurance companies authorized in the State of Louisiana. Insurance is to be placed with insurers with an A. M. Best's rating of no less than A-:VI. This rating requirement will be waived for the workers' compensation coverage and policies written through Lloyds of London or Institute of London Underwriter (ILU) companies.

Thirty days prior notice of cancellation shall be given to the Owner by registered mail, return receipt requested, on all of the required coverage provided to the Owner. All notices will name the Contractor/ Subcontractor and identify the contract number.

Insurance coverage specified in the GENERAL CONDITIONS (AIA Document A 201, 1997 Edition) to be provided by the Contractor, and any other insurance described below shall be furnished with the following minimum limits:

11.1.3.1 Workers' Compensation - Statutory - in compliance with the Compensation Law of the State. Exception: Employers liability to be \$1,000,000 when work is to be over water and involves maritime exposures.

11.1.3.2 Commercial General Liability Insurance with a combined single limit per occurrence for bodily injury and property damage. This insurance shall include coverage for bodily injury and property damage, and indicate on the Certificate of Insurance which of the seven (7) coverages required below are not included in the policy, if any:

- |  |   |
|--|---|
| 1 Premises - Operations;                 | 5 Personal Injury;                          |
| 2 Broad Form Contractual Liability;      | 6 Broad Form Property Damage;               |
| 3 Products and Completed Operations;     | 7 Explosion, Collapse and Underground (XCU) |
| 4 Use of Contractors and Subcontractors; | Coverage.                                   |

*NOTE: On the certification of insurance, under the description of operations, the following wording is required: THE AGGREGATE LOSS LIMIT APPLIES TO EACH PROJECT, or a copy of ISO form CG2503 (Current form approved for use in Louisiana) shall be submitted.*

**COMBINED SINGLE LIMIT (CSL) - AMOUNT OF INSURANCE REQUIRED**

Type of Construction	Projects Under \$100,000	Projects \$100,001 - \$1,000,000	Projects Over \$1,000,000
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**New Buildings:**

-Each Occurrence/ Minimum Limit	\$500,000	\$1,000,000	\$3,000,000
-Aggregate (Applicable to this Contract ONLY)	\$500,000	\$1,000,000	\$3,000,000

**Renovations:**     *The building(s) value for this Project is: \$\_\_\_\_\_*

-Each Occurrence/ Minimum Limit	\$500,000*** (Depends On Building Value)	\$1,000,000*** (Depends On Building Value)	\$3,000,000*** (Depends On Building Value)
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-Aggregate (Applicable to \$500,000*** this Contract ONLY)	(Depends On Building Value)	\$1,000,000*** (Depends On Building Value)	\$3,000,000*** (Depends On Building Value)
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\*\*\*While the minimum combined single limit of \$500,000 is required for all renovations, the value of a building shall be multiplied by 10% and insurance requirements will be increased at \$1,000,000 intervals and rounded to the nearest \$1,000,000. Example: Renovation on \$33,000,000 building would require \$3,000,000 minimum combined single limit of coverage. Maximum limit required is \$5,000,000.00 regardless of building value.

11.1.3.3 Business Automobile Liability Insurance with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage, unless otherwise indicated. This insurance shall include for bodily injury and property damage the following coverages:

- 1 Owned automobiles;
- 2 Hired automobiles;
- 3 Non-owned automobiles.

11.1.3.4 An Umbrella Policy may be used to meet minimum requirements.

11.1.4 All of the Owner's property losses shall be made payable to and adjusted with the Owner.

11.1.5 All policies of insurance shall be approved by the contracting Owner prior to the inception of any work.

11.1.6 Other insurance required is as follows:

11.1.6.1 Owner's Protective Liability Insurance shall be furnished by the Contractor and naming the State of Louisiana as the Insured.

	Projects Under \$100,000	Projects \$100,001-\$1,000,000	Projects Over \$1,000,000
CSL - Each Occurrence	\$500,000	\$1,000,000	\$3,000,000

11.1.6.2 Asbestos Abatement Liability  
*(required when asbestos abatement is included in the work)*

The contractor or subcontractor who will be doing the asbestos abatement as outlined in this contract shall obtain and maintain such liability coverage for the asbestos abatement hazard and exposure with minimum limits of \$1,000,000 per occurrence for the duration of the project. The policy shall name the State of Louisiana, all State departments, agencies, boards and commissions as an additional insured for the project. The policy shall be written on an "occurrence" form without a sunset clause. Claims-made coverage is unacceptable. The insurance company shall have an A.M. Best rating of at least A-:VI or better or written through Lloyds of London or Institute of London Underwriter (ILU) companies.

- 11.1.7 If, at any time, any of the said policies shall be or become unsatisfactory to the Owner, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Owner, the Contractor/Subcontractor shall promptly obtain a new policy, submit the same to the Owner for approval and submit a certificate thereof as hereinabove provided.

Upon failure of the Contractor/Subcontractor to furnish, deliver and maintain such insurance as above provided, this contract, at the election of the Owner, may be forthwith declared suspended, discontinued or terminated. Failure of the Contractor/Subcontractor to take out and/or to maintain or the taking out and/or maintenance of any required insurance, shall not relieve the Contractor/Subcontractor from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the Contractor/Subcontractor concerning indemnification. The Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.

- 11.1.8 RISKS AND INDEMNIFICATIONS ASSUMED BY THE CONTRACTOR Neither the acceptance of the completed work nor payment therefor shall release the Contractor/Subcontractor from his obligations from the insurance requirements or indemnification agreement.

11.1.8.1 Additional insurance may be required on an individual basis for extra hazardous contracts and specific service agreements.

If such additional insurance is required for a specific contract, that requirement will be described in the "Special Conditions" of the contract specifications.

11.1.8.2 If any of the Property and Casualty insurance requirements are not complied with at their renewal dates, payments to the Contractor/Subcontractor will be withheld until those requirements have been met, or at the option of the Owner, the Owner may pay the Renewal Premium and withhold such payments from any monies due the Contractor/Subcontractor.

11.1.8.3 All of the Owner's property losses shall be made payable to and adjusted with the Owner.

11.1.8.4 All policies and certificates of insurance shall be approved by the contracting agency prior to the inception of any work.

11.1.8.5 If at any time any of the foregoing policies shall be or become unsatisfactory to the Owner, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Owner, the Contractor/Subcontractor shall, upon notice to that effect from the Owner, promptly obtain a new policy, submit the same to the Owner for approval and submit a certificate thereof as hereinabove provided. Upon failure of the Contractor/Subcontractor to furnish, deliver and maintain such insurance as above provided, this Contract, at the election of the Owner, may be forthwith declared suspended, discontinued or terminated. Failure of the Contractor/Subcontractor to take out and/or maintain or the taking out and/or maintenance of any required insurance, shall not relieve the Contractor/Subcontractor from any liability under the Contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the



obligations of the Contractor/Subcontractor concerning indemnification. The Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.

#### 11.1.9 SUBCONTRACTORS

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates from each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

#### 11.1.10 CERTIFICATE OF INSURANCE

Contractor shall furnish the Owner with certificates of insurance affecting coverage required by this clause. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates of insurance must also contain the following in the "Description of Operations" section:

If the contractor is a General Contractor, then so state.

If the contractor is a specialty contractor, then so state and provide the list of specialties for which the contractor is insured.

The certificates are to be received and approved by the Owner before work commences. The Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.

### 11.2 INSURANCE REQUIREMENTS FOR CONTRACTORS

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's bid.

#### 11.2.1 MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

11.2.1.1 Insurance Services Office Commercial General Liability coverage ("occurrence") form CG 0001. (Current form approved for use in Louisiana.) "Claims Made" form is unacceptable. The "occurrence form" shall not have a "sunset clause".

11.2.1.2 Insurance Services Office form number CA 0001 (Current form approved for use in Louisiana.) covering Automobile Liability. The policy shall provide coverage for owned, hired, and non-owned coverage. If an automobile is to be utilized in the execution of this contract, and the vendor/contractor does not own a vehicle, then proof of hired and non-owned coverage is sufficient.

11.2.1.3 Workers' Compensation insurance as required by the Labor Code of the State of Louisiana, including Employers Liability insurance.

#### 11.2.2 MINIMUM LIMITS OF INSURANCE

Contractor shall maintain limits no less than:

11.2.2.1 Commercial General Liability: \$500,000 combined single limit per occurrence for bodily injury, personal injury and property damage (or higher limits depending on size of contract.)

11.2.2.2 Automobile Liability: \$500,000 combined single limit per accident, for bodily injury and property damage (or higher limits depending on size of contract).

11.2.2.3 Workers Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of Louisiana and Employers Liability coverage. Exception: Employers liability limit is to be \$1,000,000 when work is to be over water and involves maritime exposure.

#### 11.2.3 DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the Owner. At the option of the Owner, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Owner, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

#### 11.2.4 OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain, the following provisions:

##### 11.2.4.1 General Liability and Automobile Liability Coverages

11.2.4.1.1 The Owner, its officers, officials, employees, Boards and Commissions and volunteers are to be added as "additional insureds" as respects liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor, premises owned, occupied or used by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Owner, its officers, officials, employees or volunteers.

It is understood that the business auto policy under "Who is an Insured" automatically provides liability coverage in favor of the State of Louisiana.

11.2.4.1.2 Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Owner, its officers, officials, employees, Boards and Commissions or volunteers.

11.2.4.1.3 The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

##### 11.2.4.2 Workers' Compensation and Employers' Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Owner, its officers, officials, employees and volunteers for losses arising from work performed by the Contractor for the Owner.

#### 11.2.4.3 All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Owner.

#### 11.2.5 ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with an A.M. Best's rating of no less than A:VI. This rating requirement will be waived for the workers' compensation coverage.

#### 11.2.6 VERIFICATION OF COVERAGE

Contractor shall furnish the Owner with certificates of insurance effecting coverage required. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates of insurance must also contain the following in the "Description of Operations" section:

If the contractor is a General Contractor, then so state.

If the contractor is a specialty contractor, then so state and provide the list of specialties for which the contractor is insured.

The certificates are to be received and approved by the Owner before work commences. The Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.

### 11.3 PROJECT MANAGEMENT PROTECTIVE LIABILITY INSURANCE

Delete Subparagraphs 11.3.1, 11.3.2, & 11.3.3

### 11.4 PROPERTY INSURANCE

Delete all Subparagraphs 11.4.1 through 11.4.10 and substitute the following:

- 11.4.1 The General Contractor shall purchase and maintain property insurance upon the entire work included in the contract for an amount equal to the greater of the full-completed value or the amount of the construction contract including any amendments thereto. The general contractor's policy shall provide "ALL RISK" Builder's Risk insurance (extended to include the perils of wind, collapse, vandalism/malicious mischief, and theft, including theft of materials whether or not attached to any structure.) The "All Risk" Builder's Risk Insurance must also cover architects' and engineers' fees that may be necessary to provide plans and specifications and supervision of work for the repair and/or replacement of property damage caused by a covered peril not to exceed 10% of the cost of those repair and/or replacements.

Flood coverage shall be provided by the Contractor on the first floor and below for projects North of the Interstate Corridor beginning at the Texas - Louisiana border at Interstate 10 East

to the Baton Rouge junction of Interstate 12, East to Slidell junction with Interstate 10 to the Louisiana - Mississippi border. Flood sub-limit shall equal an amount no lower than ten percent (10%) of the total contract cost per occurrence. Coverage for roofing projects shall **not** require flood coverage.

On projects South of this corridor, flood coverage shall be provided by the State of Louisiana, as the owner, through the National Flood Insurance Program (NFIP). The Contractor will be liable for the \$5,000 deductible on the NFIP policy from the Notice to Proceed date through the Notice of Final Acceptance date of the project.

A specialty contractor shall purchase and maintain property insurance upon the system to be installed for an amount equal to the greater of the full-completed value or the amount of the contract including any amendments thereto. The specialty contractor may provide an installation floater with the same coverage as the "ALL RISK" Builder's Risk insurance policy.

The policy must include the interest of the Owner, Contractor and Subcontractors as their interest may appear. The contractor has the right to purchase coverage or self-insure any exposures not required by the bid specifications, but shall be held liable for all losses, deductibles, self-insurance for coverages not required.

Policies insuring projects involving additions, alterations or repairs to existing buildings or structures must include an endorsement providing the following:

In the event of a disagreement regarding a loss covered by this policy which may also be covered by the State of Louisiana policy of self-insurance or any commercial property insurance policy purchased by the State of Louisiana, Office of Risk Management (ORM) covering in excess of the State of Louisiana, policy of self-insurance, this company agrees to follow the following procedure to establish coverage and/or the amount of loss:

Any party to a loss may make written demand for an appraisal of the matter in disagreement. Within 20 days of receipt of written demand, this company and either ORM or its commercial insurance company shall each select a competent and impartial appraiser and notify the other of the appraiser selected. The two appraisers will select a competent and impartial umpire. The appraisers will then identify the policy or policies under which the loss is insured and, if necessary, state separately the value of the property and the amount of the loss that must be borne by each policy. If the two appraisers fail to agree, they shall submit their differences to the umpire. A written decision by any two shall determine the policy or policies and the amount of the loss. Each insurance company (or ORM) agree that the decision of the appraisers and the umpire if involved, will be binding and final and that neither party will resort to litigation. Each of the two parties shall pay its chosen appraiser and bear the cost of the umpire equally.

Add the following Subparagraph 11.5.3:

#### 11.5.3 RECORDATION OF CONTRACT AND BOND

"The Owner shall record within thirty (30) days the Contract Between Owner and Contractor and Performance and Payment Bond with the Clerk of Court in the Parish in which the work is to be performed."

## **ARTICLE 12**

### **UNCOVERING AND CORRECTION OF WORK**

12.2.2.1 At the end of the paragraph add the following sentences: "If the Contractor fails to correct Work identified as defective and covered by warranties, the Owner may hold the Contractor in default. If the Owner finds the Contractor is in default, the Surety shall be notified. Finding the Contractor in default shall constitute a reason for disqualification of the Contractor from bidding on future state contracts."

## **ARTICLE 13**

### **MISCELLANEOUS PROVISIONS**

#### **13.2 SUCCESSORS AND ASSIGNS**

13.2.1 In the second sentence, Delete "Except as provided in Subparagraph 13.2.2"

Delete paragraph 13.2.2

#### **13.4 RIGHTS AND REMEDIES**

13.4.1 Add the following at the beginning of the first sentence: "Except as otherwise specifically provided,"

13.4.3 Add the following clause 13.4.3.

13.4.3 The Nineteenth Judicial Court in and for the Parish of East Baton Rouge, State of Louisiana shall have sole jurisdiction and venue in any action brought under this contract.

#### **13.5 TESTS AND INSPECTIONS**

In Subparagraph 13.5.1 delete the second sentence and substitute the following:

"The Contractor shall make arrangements for such tests, inspections and approvals with the Testing Laboratory provided by the Owner, and the Owner shall bear all related costs of tests, inspections and approvals."

Delete the last sentence of Subparagraph 13.5.1.

#### **13.6 INTEREST**

Delete Paragraph 13.6.

#### **13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD**

Delete paragraph 13.7. (See R.S.48:251.3)

## **ARTICLE 14**

### **TERMINATION OR SUSPENSION OF THE CONTRACT**

#### **14.1 TERMINATION BY THE CONTRACTOR**

Delete clause 14.1.1.4.

#### **14.2 TERMINATION BY THE OWNER FOR CAUSE**

Add the following clause:

14.2.1.5 "Failure to complete the punch list within the lien period as provided in 9.8.2.3."

14.2.3 Add the following sentence:

"Termination by the Owner shall not suspend assessment of liquidated damages against the surety."

14.2.5 Add the following Subparagraph:

"If an agreed sum of liquidated damages has been established, termination by the Owner under this Article will not relieve the Contractor and/or surety of his obligations under the liquidated damages provisions and the Contractor and/or surety shall be liable to the Owner for per diem liquidated damages."

#### **14.4 TERMINATION BY THE OWNER FOR CONVENIENCE**

14.4.1 Delete clause 14.4.1.

14.4.3 Delete clause 14.4.3. LA DOTD 2000 Standard Specification for Roads and Bridges subsection 108.11 shall govern

## **ARTICLE 15**

Add the following as Article 15:

### **EQUAL OPPORTUNITY**

- 15.1 The Contractor and all Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to the following:

employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

- 15.2 The Contractor and all Subcontractors shall, in all solicitations or advertisement for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.